

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Richmond Division)

In re:)	
)	Chapter 11
CIRCUIT CITY STORES, INC., <i>et al.</i> ,)	
)	Case No. 08-35653-KRH
Debtors.)	Jointly Administered
_____)	

**STIPULATION AND CONSENT ORDER RESOLVING MOTION
OF D.L. PETERSON TRUST AS ASSIGNEE OF PHH VEHICLE
MANAGEMENT SERVICES, LLC TO COMPEL REJECTION OF LEASE
AGREEMENTS AND FOR RELIEF FROM THE AUTOMATIC STAY**

This Stipulation and Consent Order is made and entered into by D.L. Peterson Trust as assignee of PHH Vehicle Management Services, LLC f/k/a PHH Vehicle Management Services Corporation (“**PHH**”) and Circuit City Stores, Inc. (“**Circuit City**”) and its related Chapter 11 debtors (collectively with Circuit City, the “**Debtors**”).

WHEREAS, PHH is the lessor under the following lease agreements with Circuit City (collectively, as amended and supplemented from time to time, the “**Lease Agreements**”): (a) Motor Vehicle Fleet Open-End Operating Lease Agreement No. 5491 dated January 23, 1998, pursuant to which Circuit City leased certain vehicles; and (b) Equipment Lease dated April 19, 1999, pursuant to which Circuit City leased certain forklifts, trucks and other equipment; and

WHEREAS, PHH has filed a *Motion to Compel Rejection of Lease Agreements and for Relief from the Automatic Stay* (the “**Motion**”) [Docket Nos. 1956 and 1969] by which PHH seeks

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relief relating to the Lease Agreements and the property leased thereunder (as defined in the Motion, and as identified in exhibits attached to the Motion, the “**Leased Property**”); and

WHEREAS, PHH and the Debtors have agreed to resolve the issues raised in the Motion in accordance with the terms of this Stipulation and Consent Order.

NOW, THEREFORE, PHH and the Debtors hereby STIPULATE AND AGREE, and it is hereby ORDERED, ADJUDGED AND DECREED by the United States Bankruptcy Court for the Eastern District of Virginia, as follows:

1. The Motion is hereby resolved as set forth in this Stipulation and Consent Order.
2. The Debtors and their agents shall not sell any portion of the Leased Property.
3. The Debtors shall continue to have the right to possess and use the Leased Property in accordance with the terms of the Lease Agreements and shall continue to return items of Leased Property to PHH as the Debtors close locations in connection with their ongoing liquidation sale. The Debtors and their agents shall cooperate with PHH in the return of items of Leased Property and, to this end, the Debtors shall provide PHH with as much advanced notice of the need to retrieve items of Leased Property as is practicable under the circumstances.
4. Within ten (10) business days following the date of entry of this Stipulation and Consent Order, the Debtors shall pay \$460,340.09 to PHH (representing the sum of the following:
(a) \$239,901.08 in payments that came due under the Lease Agreements on January 16, 2009; and
(b) \$220,133.01 in payments that came due under the Lease Agreements on February 16, 2009). In addition, the Debtors shall timely pay all future post-petition amounts that come due under the Lease Agreements in accordance with the terms of the Lease Agreements (with the understanding that, as items of Leased Property are returned to PHH, the rent and associated costs, including any

maintenance fees, attributable to such items will reduce the amounts due under the Lease Agreements).

5. Notwithstanding anything to the contrary in this Stipulation and Consent Order or in the Lease Agreements, any claim which PHH may have for costs and expenses or damages relating to the retrieval, reconditioning and/or sale of any item of Leased Property shall be treated as a general unsecured claim in the Debtors' bankruptcy cases (and shall not, under any circumstances, be treated as an administrative expense claim).

6. The terms of this Stipulation and Order shall not apply with regard to any batteries and related accessories leased to the Debtors under the Lease Agreements, except that paragraph 4 shall be applicable; provided, however, that the Debtors shall use reasonable efforts to not sell, for a period of seven (7) days following the date of entry of this Stipulation and Consent Order, any of the batteries and related accessories leased to the Debtors under the Lease Agreements that are located in the Debtors' distribution centers.

7. Except to the extent expressly set forth herein, PHH and the Debtors retain and reserve all rights and remedies, including all rights which PHH and the Debtors may have under the Lease Agreements and/or applicable law (including the Debtors' right to seek rejection of the Lease Agreements).

8. The terms and conditions of this Stipulation and Consent Order shall remain in full force and effect upon conversion of the Debtors' bankruptcy cases to any other chapter of the Bankruptcy Code and shall be binding upon the Debtors, their successors and assigns and any trustee subsequently appointed in the Debtors' bankruptcy cases.

9. The Court shall retain jurisdiction over any matter arising out of or relating to this Stipulation and Consent Order.

DATE: _____ 2009

Honorable Kevin R. Huennekens
United States Bankruptcy Judge

ENTERED ON DOCKET:

WE ASK FOR THIS:

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Counsel for Debtors and Debtors in Possession

CERTIFICATION

THE UNDERSIGNED HEREBY CERTIFIES, pursuant to Local Rule 9022-1(C), that this Consent Order has been endorsed by all necessary parties.

/s/ Ryan C. Berry
Ryan C. Berry (VSB No. 67956)